

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

14 BAIL APPLICATION NO.1857 OF 2023

NANDU BHIMRAO TAKWALE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. A.N. Barhate Patil
APP for Respondent : Mr. S.P. Deshmukh
Advocate for Respondent 2 : Mr. V.S. Wakale h/f S.G.
Ghongade

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: October 31, 2023

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.209 of 2023 registered with Harsul police station, District Aurangabad for the offences punishable under sections 376, 376(2)(n), 323, 504, 506 of the Indian Penal Code.

2. Investigation was set in motion on the basis of the information given by the victim. She alleges that she is a married woman having two children. She was residing in Harsool Chetana Nagar area. In the year 2014 the accused, who was also residing in the same area, snapped her photographs while she was bathing. He insisted her to have love affair under threats of making photographs viral. The informant was compelled to accept his proposal. Thereafter, informant stayed together with the accused in a rented premises at Radhaswamy colony from the year 2015 till 2017. Thereafter, they shifted residence to another rented home in

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Mukundwadi Area. Again, they shifted to Chetana Nagar area in the year 2021. During this period, she had continuous physical relationship with the accused. She alleges that although she was pursuing the accused to perform marriage with her, he refused to do so. Hence, she lodged the report against applicant for offence of rape.

3. Mr. Barhate, learned advocate appearing for the applicant would submit that the informant/victim is a mature lady having two children. Her marriage is still in subsistence. She alleges love affair with the applicant and physical relationship during the period from 2014 till filing of the FIR and, now she files a complaint alleging that she is a victim of rape by the applicant. He would further submit that contentious physical relationship between the applicant and informant cannot be given colour of the offence under section 376 of the IPC.

4. Learned A.P.P as well as the learned advocate appearing for the victim strongly opposes the application. They would submit that after registration of the offence, the informant has been subjected to the harassment. The informant has lodged further complaint against the applicant alleging that the applicant and his family members have forcibly administered phenyl to her.

5. Having considered the submissions advanced, it is apparent that since 2014 till 2023 the informant had continuously physical relationship with the applicant. They

were residing together as husband and wife in the rented premises. Pertinently, the informant is a married lady having two children. It is not her case that she had divorced with her husband. She alleges that under threats of making viral her objectionable photographs, she was ravished by the applicant. However, when she continued her relationship for more than nine years and also resided with the applicant in a shared residence, it is difficult to believe that she had consented for sexual relationship on account of threats or criminal force exerted by the applicant. Prima facie consideration of the material on record depicts that the applicant and informant were having consensus sexual relationship. Subsequent statement recorded by the informant under section 164 of the Cr.P.C. depicts that there were discord between the applicant and informant on account of financial transactions, which gave rise to file the present complaint. In that view of the matter, further detention of the applicant need not be continued. Hence, case is made out for grant of bail. Hence, the order.

O R D E R

- i. Bail Application is hereby allowed.
- ii. The applicant - NANDU BHIMRAO TAKWALE be released on bail in connection with in connection with Crime No.209 of 2023 registered with Harsul police station, District Aurangabad for the offences punishable under sections 376, 376(2)(n), 323, 504, 506 of the Indian Penal Code on his

furnishing P.B. & S.B. of Rs.50,000/- (Rs.Fifty Thousand), on the following conditions :-

- a] The applicant shall not tamper the prosecution evidence.
 - b] The applicant shall not establish contact with the informant or any other witness concerning the present case.
 - c] The applicant shall attend the concerned police station once in a week i.e. on every Monday between 10 am to 2 pm till filing of the charge sheet.
 - d] The applicant shall not indulge in any criminal activity.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE.

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